

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MOJO NICHOLS, et al.,

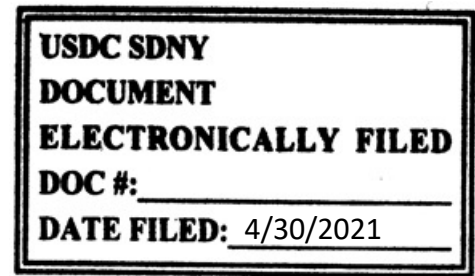
Plaintiffs,

-against-

NOOM INC., et al.,

Defendants.

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KATHARINE H. PARKER, United States Magistrate Judge



ORDER

20-CV-3677 (LGS) (KHP)

Plaintiffs submitted an “emergency extenuating circumstances” application to remedy alleged violations of this Court’s orders concerning Noom’s search for, collection, and production of documents and communications pertaining to an August 19, 2020 warning issued by the Better Business Bureau (“BBB”), Noom’s CEO’s public statement in response to the warning, certain documents provided to Noom’s Board of Directors, and “other relevant documents.” (ECF Nos. 275, 277.) This application was submitted in contravention of this Court’s rules requiring a letter requesting a conference before submission of any discovery motion and exceeded the Court’s three-page limit.

Additionally, the alleged “emergency” is no such thing. Plaintiffs fault Defendants for producing only a few documents on certain topics and speculate that Defendants’ counsel has not conducted a reasonable search for documents consistent with their obligations under the Federal Rules of Civil Procedure.

However, the reason for the delay in Defendants’ production was a dispute over search terms. The Court resolved that dispute at the last case management conference and Noom is

now applying those terms to its collection and will begin producing additional documents on a rolling basis. Thus, Plaintiffs' application also is premature.

To the extent Defendants' production reveals that there should be additional people added as document custodians for purposes of ESI collection, review, and production, Plaintiffs should meet and confer with Noom on the addition of these custodians. This communication should take place in June 2021, after Noom has produced more documents, allowing both parties to ascertain the necessity of adding custodians. The Court will address any disputes about the addition of custodians at the July 2021 case management conference.

For the above reasons, Plaintiffs' application is DENIED.

SO ORDERED.

DATED: April 30, 2021
New York, New York



KATHARINE H. PARKER
United States Magistrate Judge